

PATENT**Application # 09/736,430**

Attorney Docket # 2685/113592 (1014-087)

REMARKS

The Examiner is respectfully thanked for the consideration provided to this application. Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

Each of claims 13 and 15 has been amended for reasons unrelated to patentability, including at least one of: to explicitly present one or more elements implicit in the claim as originally written when viewed in light of the specification, thereby not narrowing the scope of the claim; to detect infringement more easily; to enlarge the scope of infringement; to cover different kinds of infringement (direct, indirect, contributory, induced, and/or importation, etc.); to expedite the issuance of a claim of particular current licensing interest; to target the claim to a party currently interested in licensing certain embodiments; to enlarge the royalty base of the claim; to cover a particular product or person in the marketplace; and/or to target the claim to a particular industry.

Claims 13-15 are now pending in this application. Each of claims 13 and 15 is in independent form.

The Anticipation Rejections

Each of claims 13-15 was rejected as anticipated under 35 U.S.C. 102(e). In support of the rejection, Abecassis (U.S. Patent No. 6,504,990) was cited. These rejections are respectfully traversed.

1. Legal Standard

The applied portions of Abecassis fail to establish a prima facie case of anticipation. See MPEP 2131. To anticipate expressly, the "invention must have been known to the art in the detail of the claim; that is, all of the elements and limitations of the claim must be shown in a

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single prior art reference, arranged as in the claim". *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001). The single reference must describe the claimed subject matter "with sufficient clarity and detail to establish that the subject matter existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention". *Crown Operations Int'l, LTD v. Solutia Inc.*, 289 F.3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002). Moreover, the prior art reference must be sufficient to enable one with ordinary skill in the art to practice the claimed invention. *In re Borst*, 345 F.2d 851, 855, 145 USPQ 554, 557 (C.C.P.A. 1965), *cert. denied*, 382 U.S. 973 (1966); *Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1354, 65 USPQ2d 1385, 1416 (Fed. Cir. 2003) ("A claimed invention cannot be anticipated by a prior art reference if the allegedly anticipatory disclosures cited as prior art are not enabled.") The USPTO "has the initial duty of supplying the factual basis for its rejection." *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (C.C.P.A. 1967).

2. Claim Construction

On 12 July 2005, the *en banc* Federal Circuit, in *Phillips v. AWH Corp.*, No. 03-1269 (Fed. Cir. 2005), clarified that:

1. "[t]he Patent and Trademark Office ('PTO') determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction '**in light of the specification as it would be interpreted by one of ordinary skill in the art**'";
2. the words of a claim "are generally given their ordinary and customary meaning";
3. the ordinary and customary meaning of a claim term is "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application";
4. "the person of ordinary skill in the art is deemed to read the claim term not only in the

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context of the particular claim in which the disputed term appears, but **in the context of the entire patent**, including the specification”;

5. even “the context in which a term is used in the asserted claim can be highly instructive”;
6. “the specification may reveal a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess. In such cases, **the inventor’s lexicography governs**”;
7. even “when guidance is not provided in explicit definitional format, **the specification may define claim terms by implication** such that the meaning may be found in or ascertained by a reading of the patent documents”;
8. an “invention is construed not only in the light of the claims, but also with reference to the file wrapper or prosecution history in the Patent Office”; and
9. the “prosecution history... consists of the complete record of the proceedings before the PTO and includes the prior art cited during the examination of the patent.”

In the present Application, the customary meaning for the phrase “vehicle” is implicitly defined in the specification. At least at pages 7-8, the specification of the present Application implicitly defines the term “vehicle” by stating that: “a navigation system installed in a vehicle that is capable of assisting the operator in navigating the vehicle ... agent 100 may track the location of the vehicle through transmissions from device 120 and determine the location of services near the vehicle; e.g., the location of hospitals, banks, gasoline stations and other services in the vicinity of the current position of the vehicle.” That definition must control examination of those claims that recite this phrase.

Thus, the phrase “vehicle” should be construed as one of ordinary skill in the relevant art would interpret the definition provided implicitly in the specification.

PATENT**Application # 09/736,430****Attorney Docket # 2685/113592 (1014-087)****3. Missing Element – Claims 13-15**

Each of independent claims 13 and 15 recite, yet the applied portions of Abecassis fail to expressly or inherently teach or suggest, “operable to measure a first time delay associated with a first complementary data stream delivered to a first device and a second time delay associated with a second complementary data stream delivered to a second device, and synchronize the first data complementary data stream and the second data stream by causing at least one of the first complementary data stream and the second complimentary data stream to be delayed by at least a time equal to a difference between the first time delay and the second time delay.”

Accordingly, it is respectfully submitted that the rejection of each of claims 13 and 15 is unsupported by Abecassis and should be withdrawn. Also, the rejection of claim 14, which ultimately depends from claim 13 is unsupported by Abecassis and also should be withdrawn.

4. Missing Element – Claim 13

Claim 13 recites, yet the applied portions of Abecassis fail to expressly or inherently teach or suggest, “wherein the first device is a **vehicle navigation system** and wherein the complementary data includes navigational video data delivered to the first device and supplementary data delivered to the second device.”

Accordingly, it is respectfully submitted that the rejection of claims 13 is unsupported by Abecassis and should be withdrawn. Also, the rejection of claim 14, which ultimately depends from claim 13 is unsupported by Abecassis and also should be withdrawn.

Allowable Subject Matter

A potential statement of reasons for the indication of allowable subject matter is:
“none of the references of record alone or in combination disclose or suggest the combination of limitations found in the independent claims. Namely, claims 13-15 are allowable because none of the references of record alone or in combination disclose or suggest ‘operable to measure a first

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time delay associated with a first complementary data stream delivered to a first device and a second time delay associated with a second complementary data stream delivered to a second device, and synchronize the first data complementary data stream and the second data stream by causing at least one of the first complementary data stream and the second complimentary data stream to be delayed by at least a time equal to a difference between the first time delay and the second time delay”.

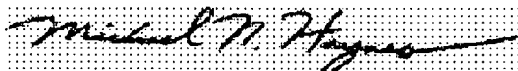
CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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